

1979 WL 42846 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1979

*1 Mr. Harry W. Davis, Jr.

Director

South Carolina Department of Juvenile Placement and Aftercare

P. O. Box 5535

Columbia, South Carolina 29250

Dear Mr. Davis:

You have asked whether the simultaneous holding of positions of Juvenile Placement and Aftercare Counselor and Deputy Sheriff of Lancaster County constitute a violation of the constitutional prohibiting dual office holding.

In [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762 (1907), the Supreme Court defined public officer as follows:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, and the performance of which the public is concerned, and which are continuing and not occasional or intermittent, is a public officer.

This Office has consistently advised that a Deputy Sheriff is a public officer for dual office holding purposes. See, e.g., 1975 Attorney General Opinion No. 3997, page 67.

The position of a Juvenile Placement and Aftercare Counselor must be examined in light of the definition of public officer set forth in [Sanders, supra](#). The position of Juvenile Placement and Aftercare Counselor is established by Section 24-15-320, [Code of Laws of South Carolina, 1976](#). The duties of these counselors are set forth in Section 24-15-340 of the [Code](#); Section 24-15-370 provides that counselors are to be regarded as official representatives of the State Board of Juvenile Placement and Aftercare.

Moreover, pursuant to Section 24-15-390 of the [Code](#), Juvenile Placement and Aftercare Counselors are authorized to issue, or cause to be issued, warrants for juveniles to be taken into custody for violating any of the conditions of their release. Such duties and powers clearly bring the position of a Juvenile Placement and Aftercare Counselor within the definition of public officer set forth above.

Therefore, it is the opinion of this Office that [Section 1\(a\) of Article XVII, of the South Carolina Constitution](#), which prohibits dual office holding, would be violated if an individual simultaneously held positions of Juvenile Placement and Aftercare Counselor and Deputy Sheriff.

If you have any questions, please do not hesitate to contact me.

Sincerely,

James W. Johnson, Jr.

Assistant Attorney General

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